TRANSCRIPT OF THE RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1889.

No. 132.

WILLIAM ROEMER, APPELLANT,

vs.

CHARLES KUPPER.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY.

FILED OCTOBER 8, 1886.

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JUDD & DETWEILER, PRINTERS, WASHINGTON, JULY 15, 1889.

1 Circuit Court of the United States for the District of New Jersey, Third Circuit.

WILLIAM ROEMER, Complainant and Appellant,
vs.
CHARLES KUPPER, Defendant and Appellee. } In Equity.

By the Honorable John T. Nixon, judge, to Charles Kupper:

Whereas William Roemer has lately appealed to the Supreme Court of the United States from a decree rendered in the circuit court of the United States for the district of New Jersey, made in favor of you, the said Charles Kupper, and has filed the security required by law:

You are therefore hereby cited to appear before the said Supreme Court, at the city of Washington, on the second Monday of October next, to do in the matter of said appeal what may remain to justice to be done in the premises.

Given under my hand, at the city of Trenton, in the district of New Jersey, in the third circuit, the 23rd day of August, in the year of our Lord one thousand eight hundred and eighty-six.

JNO. T. NIXON, *Judge.*

2 Endorsed: U. S. circuit c't., dist. of N. J. Wm. Roemer *vs.* C. Kupper. Citation. Briesen & Steele, appellant's sol'rs, 229 Broadway, New York. Service of a copy of the within citation is hereby admitted. Aug. 25, '86. Betts, Atterbury & Betts, resp. sol'rs.

3 Circuit Court of the United States for the District of New Jersey, Third Circuit.

WILLIAM ROEMER, Complainant and Appellant,
vs.
CHARLES KUPPER, Defendant and Appellee. } In Equity.

To the honorable the Supreme Court of the United States:

The appeal of William Roemer, complainant and appellant above named, respectfully showeth that upon the 16th day of July, 1884, the above-named complainant filed his bill of complaint in the circuit court of the United States for the district of New Jersey, in the third circuit, against the above-named defendant, Charles Kupper, in a suit in equity, alleging that said defendant had infringed the rights of the complainant therein as secured to him by letters patent granted on the 18th day of September, 1877, to him, and numbered 195,233, and praying for an accounting and payment to the complainant by the said defendant of the profit by him realized

and of the damages suffered by said William Roemer, complainant and appellant, by reason of said infringement of said letters patent; and also that the writs of subpœna and of injunction might be issued against said defendant, his clerks, agents, servants, workmen, &c.

4 This complainant and appellant further showeth that pursuant to said prayer a *subpœna ad respondendum* issued out of and under the seal of said circuit court, and was duly served on said Charles Kupper.

This complainant and appellant further showeth that thereafter said defendant, Charles Kupper, appeared and answered said bill of complaint by filing his answer, and, among other things, he therein denied the validity of said letters patent, and denied that he infringed the same; that a general replication was filed thereto, and, issue being thus joined, testimony was taken; whereupon such proceedings were had that on the 14th day of August, 1886, a final decree was ended in said circuit court, wherein it was in substance adjudged and decree- that the said bill of complaint be dismissed with costs to the said defendant, Charles Kupper, previously taxed at $72.91, which said decree is, as this appellant is advised, erroneous and ought to be reversed.

Wherefore this appellant appeals from the whole of said decree of said circuit court [to] the Supreme Court of the United States, and respectfully prays that the decree of said circuit court, together with the bill of complaint, answer, replication, pleadings, depositions, evidence, and exhibits and proceedings in said cause, may be sent to the Supreme Court of the United States without delay, and that the said Supreme Court will proceed to hear the said cause anew,

5 and that the said decree of the said circuit court and every part thereof may be reversed with costs, and the complainant may be given the relief prayed for in his bill of complaint, or such other decree made as the Supreme Court shall decree just.

BRIESEN & STEELE, *Solicitors.*

A. V. BRIESEN, *Of Counsel.*

Appeal allowed August 23rd, 1886.

JNO. T. NIXON, *J.*

Endorsed: U. S. circuit c't, dist. of N. J. Wm. Roemer *vs.* C. Kupper. Appeal. Briesen & Steele, appellant's sol'rs, 229 Broadway, New York.

6 At a stated term of the circuit court of the United States held in and for the district of New Jersey, in the city of Trenton, on the 14th day of August, 1886.

Present: Hon. Jno. T. Nixon, judge.

WILLIAM ROEMER *vs.* CHARLES KUPPER. } In Equity.

This cause coming on to be heard at the March term of this court

upon the annexed stipulation and upon the pleadings, proceedings, and proofs, after due proceedings had, it is, upon consideration, ordered, adjudged, and decreed—

That the bill of complaint herein be, and the same hereby is, dismissed, and that the defendants do recover of the complainant $72.91, costs of this suit, and that the defendants have execution therefor.

JNO. T. NIXON, *J.*

Form approved Aug. 11, 1886.
BRIESEN & STEELE.
BETTS, ATTERBURY & BETTS.

7 United States Circuit Court, District of New Jersey.

WILLIAM ROEMER *vs.* CHARLES KUPPER.

It is hereby stipulated and agreed between the solicitors for the complainant and defendant herein that (the issues in the above-entitled case being substantially identical with those in the cases of William Roemer *vs.* Albert O. Headly and William Roemer *vs.* Thomas B. Peddie *et al.*, in the circuit court of the United States for the southern district of New York, in which his honor, Judge Wheeler, on the 4th day of June, 1886, rendered a decision dismissing the bills with costs to the defendants) a decree may be entered herein in the same form as the decrees entered in said two suits on the 8th day of June, 1886.

And it is further stipulated and agreed that in the event that the complainant shall appeal the said suit of William Roemer *v.* Thomas B. Peddie *et al.*, and also the above-entitled suit of William Roemer *v.* Charles Kupper, on or before the 30th day of October, 1886, then and in that event a transcript of the record in the above-entitled suit need not be filed in the United States Supreme Court, but said suit may be argued on the record of said suit of William Roemer *v.* Thomas B. Peddie *et al.*, and abide by the result of said suit.

New York, July 8, 1886.

8 BRIESEN & STEELE,
Compl't's Sol'c'rs.
BETTS, ATTERBURY & BETTS,
Def'ts' Sol'rs.

Endorsed: U. S. circuit court, district of New Jersey. William Roemer *vs.* Charles Kupper. Decree. Betts, Atterbury & Betts, solicitors for def'ts, 120 Broadway, New York. Filed Aug. 14, 1886. S. D. Oliphant, clerk.

9 UNITED STATES OF AMERICA, } *ss:*
District of New Jersey, }

I, S. D. Oliphant, clerk of the circuit court of the United States for the district of New Jersey, third circuit, do hereby certify that